

**(1989) 12 P&H CK 0015**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 3144 of 1989**

Babu Ram

APPELLANT

Vs

The Presiding Officer, Motor Accident Claims Tribunal and  
Another

RESPONDENT

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**Date of Decision :** 04-12-1989

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 48, 60  
Motor Vehicles Act, 1939 — Section 110E  
Motor Vehicles Act, 1988 — Section 174

**Citation :** (1990) 97 PLR 237

**Hon'ble Judges :** G.R. Majithia, J

**Bench :** Single Bench

**Advocate :** P.C. Chaudary, for the Appellant; Nemo, for the Respondent

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## Judgement

G.R. Majithia, J.—This petition under Article 227 of the Constitution of India is directed against the order dated 16-9-1989 passed by the Motor Accident Claims Tribunal, Kurukshetra, whereby it directed that the salary of the Judgment Debtor to the extent Rs. 400/- and two-third of the remainder be attached.

2. There is no dispute about the facts. The Motor Accident Claims Tribunal awarded, a sum of Rs. 30,000/- as compensation with interest to Madhav Ram Sharma, claimant against the petitioner who is a Government servant and is working as a Sub Divisional Clerk. Under Rule 20 of the Punjab Motor Vehicle Rules (for short the Rules), as applicable to Haryana State. Order 21 including other orders of the First Schedule to the Code of Civil Procedure, 1908 (for short the Code), were made applicable to the proceedings before the Claims Tribunal. Rule 48 of Order 21 C. P.C. provides that the attachment of salary of a Government servant is subject to the provisions of Section 60 of the Code of Civil Procedure. Proviso (i) to sub-section (1) of Section 60 read thus :

"Salary to the extent of four hundred rupees two-third of of the remainder in execution of any decree other than a decree for maintenance".

3. A bare reading of these provisions leads to the conclusion that salary of a Government servant to the extent of first Rs 400/- and 2/3rd of the remainder, is exempt from attachment in a decree other than a decree for maintenance. The award passed by the Motor Accident Claims Tribunal will fall within the ambit of a decree other than the decree for maintenance and proviso (i) to sub-section (1) of Section 60 of the Code will be attracted. The Tribunal was in error in attaching first Rs 400/- and two-third of the remainder as indicated in its order dated September 16, 1989. In the attachment warrant dated September 22, 1989, the tribunal mentioned that leaving the first four hundred rupees the remaining two-third of the salary be attached. The attachment order and the attachment warrants run counter to each other. It depicts lack of applicability of judicial mind and is not expected of an officer belonging to Superior Judicial Service; He could only attach salary to the extent of one-third only after excluding first four hundred rupees from the salary. Resultantly, the impugned order is set-aside. The Motor Accident Claims Tribunal, Kuruk shetra, is directed to attach the salary of the Judgment Debtor as indicated above. This petition is disposed of accordingly. No costs.